

**ORDINANCE NO. 20160421-039**

**AN ORDINANCE AMENDING CITY CODE TITLES 25 AND 30 RELATING TO REVIEW AND EXPIRATION OF LAND DEVELOPMENT APPLICATIONS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Section 25-1-21 (*Definitions*) of the City Code is amended by revising the definition of the term WORKING DAY to read as follows:

- (129) WORKING DAY is synonymous with BUSINESS DAY and excludes a Saturday, Sunday, [ø] an official City holiday, or any other day on which City offices are closed for regular business at any time during normal business hours.

**PART 2.** Subsection (D) of Section 25-1-62 (*Development Assessment*) of the City Code is amended to read as follows:

- (D) After the request is received, the [The] director shall deliver a development assessment to the requestor within the time frame established by the director by administrative rule [21 days after the request is received]. After its delivery, the requestor may seek a meeting with the director or the director's designee to discuss the development assessment.

**PART 3.** Subsection (A) of Section 25-1-82 (*Application Requirements and Expiration*) of the City Code is amended to read as follows:

- (A) The responsible director may adopt rules establishing the requirements for an application, including timelines for completing staff review and deadlines by which an application must be updated to meet the requirements of this title and other applicable regulations. An application expires unless it is approved on or before the deadline established by the director under this section.

**PART 4.** Section 25-1-88 (*Extension of Update Deadline*) of the City Code is amended to read as follows:

**§ 25-1-88 EXTENSION OF UPDATE DEADLINE.**

- (A) If the time required for staff review of an application exceeds the review time established by the director under Section 25-1-82 (*Application Requirements and Expiration*), the responsible director shall extend the deadline for submitting an update to the application by the number of days that staff exceeded the established review time. The responsible director shall notify the applicant of the new deadline for submitting an update.

(B) An applicant who is not entitled to an automatic extension under Subsection (A) of this section may request that the responsible director extend a deadline for submitting an update to an application, other than an application for a site plan, subdivision, or subdivision construction plan, in accordance with this subsection.

(1) A request for an extension under this subsection must be filed with the responsible director in writing [by filing a written request and justification with the responsible director] before [the] expiration of the deadline established by the director under Section 25-1-82 (*Application Requirements and Expiration*) and must include a justification for the request.

(2)[(4)] The responsible director must give notice under Section 25-1-133(B) (*Notice of Applications and Administrative Decisions*) of an extension request under this subsection.

(3)[(2)] The responsible director may grant an extension request under this subsection if the responsible director determines that good cause exists for the extension. An extension period may not exceed the length of the original time period for submitting an update to the application.

(4)[(3)] An interested party may appeal the responsible director's decision under this subsection to the Land Use Commission.

~~[(B) If the time required for staff review of an application exceeds the review time provided by this title, the responsible director shall extend the deadline for submitting an update to an application for a period of time equal to the number of days by which the actual time for review exceeds the review time provided by this title. The responsible director shall notify the applicant of the new deadline for submitting an update.]~~

**PART 5.** City Code Chapter 25-1 (*General Provisions*) is amended to add a new Section 25-1-89 to read as follows:

**§ 25-1-89 TOLLING OF APPLICATION PERIOD.**

(A) This section establishes a "stop the clock" provision tolling the expiration period for an application that requires discretionary review by the Land Use Commission, Board of Adjustment, or city council.

(B) A deadline established by the director under Section 25-1-82 (*Application Requirements and Expiration*) for obtaining approval of an application is tolled if, prior to expiration of the application, the director determines that:

- (1) approval of the application requires discretionary review, as authorized under this title, by the Land Use Commission, Board of Adjustment, or city council, other than a zoning change or code amendment; and
  - (2) the application meets all other requirements for approval, except for payment of fees, posting fiscal surety, and other code requirements as determined by the director under Section 25-1-82 (*Application Requirements and Expiration*).
- (C) If an applicant obtains all required discretionary approvals from the Land Use Commission, Board of Adjustment, or city council, any additional updates required for approval of the application must be submitted no later than 120 working days after the date of the approval. An application expires if the applicant does not comply with this deadline.
  - (D) An application expires if the Land Use Commission, Board of Adjustment, or city council denies a required discretionary approval or fails to take action after considering the matter at a public hearing.
  - (E) If expiration of an application is tolled under this section pending required approval by the Land Use Commission, Board of Adjustment, or city council, the expiration period for all other applications associated with the same project is also tolled.

**PART 6.** Subsections (C), (D), and (E) of Section 25-4-56 (*Staff Review of Application for Preliminary Plan Approval*) of the City Code are amended to read as follows:

- (C) Initial staff review period for an application for preliminary plan approval is established by the director by administrative rule under Section 25-1-82 (*Application Requirements and Expiration*) ~~[as follows:]~~

<u>Size of preliminary plan:</u>	<u>Staff review period:</u>
<del>Less than 60 acres</del>	21 days
<del>60 acres to 250 acres</del>	28 days
<del>More than 250 acres</del>	35 days]
- (D) An applicant may file with the director an update to an application for preliminary plan approval not later than one year ~~[180 days]~~ after the application was filed, unless days have been added under Section 25-1-88(A) (*Extension of Update Deadline*).
- (E) The staff review period of an update to an application for preliminary plan approval is established by the director by administrative rule ~~[14 days]~~.

**PART 7.** Subsections (B) through (F) of Section 25-4-82 (*Review of Application for Plat Approval; Expiration*) of the City Code are amended to read as follows:

- (B) After the application is filed, a [A] reviewing department or agency shall prepare and deliver to the director a written report of comments and recommendations regarding an application for plat approval not later than the deadline established by the director under Section 25-1-82 (*Application Requirements and Expiration*) [the 21<sup>st</sup> day after the application is filed].
- (C) After the application is filed, the [The] director shall determine whether an application for plat approval complies with the criteria for approval and give notice under Section 25-1-133(B) (*Notice of Applications and Administrative Decisions*) of the determination not later than the deadline established by the director under Section 25-1-82 (*Application Requirements and Expiration*) [the 28<sup>th</sup> day after the application is filed]. If the director recommends disapproval, the notice shall state the reasons for the recommendation.
- (D) An applicant may file with the director an update to an application for plat approval not later than one year [the 180<sup>th</sup> day] after the application is filed, unless days have been added under Section 25-1-88(A) (*Extension of Update Deadline*).
- (E) After the update is filed, the [The] director shall determine whether an update to an application for plat approval complies with the criteria for approval and give notice under Section 25-1-133(B) (*Notice of Applications and Administrative Decisions*) of the determination not later than the deadline established by the director under Section 25-1-82 (*Application Requirements and Expiration*) [the 14<sup>th</sup> day after the update is filed]. If the director recommends disapproval, the notice shall state the reasons for the recommendation.
- (F) An application for plat approval expires one year [on the 180<sup>th</sup> day] after filing if the director determines that the application does not comply with the criteria for approval, unless the applicant has submitted a written request to the director for review of the application by the Land Use Commission. If the applicant requests review by the Land Use Commission, the Land Use Commission shall determine whether the application complies with the criteria for approval and approve or deny the application.

**PART 8.** Section 25-4-85 (*Recordation*) of the City Code is amended to add new Subsections (C) and (D) to read as follows:

- (C) An applicant must provide all of the items and fees required to record the plat with the County Clerk within 80 business days from the date of plat approval.

- (D) An application for plat approval expires on the 81<sup>st</sup> business day after such approval unless Subsection (C) of this section is satisfied.

**PART 9.** Article 2, Division 3 of Chapter 25-4 (*Subdivision*) of the City Code is amended to add a new Section 25-4-87 to read as follows:

**§ 25-4-87 EXPIRATION OF APPLICATION FOR PLAT VACATION.**

An application to vacate a plat expires after one year.

**PART 10.** Division 4, Article 2 of Chapter 25-4 (*Subdivision*) of the City Code is amended by adding a new Section 25-4-100 that reads as follows:

**§ 25-4-100 UPDATES TO APPLICATION FOR SUBDIVISION CONSTRUCTION PLANS.**

An applicant may file an update to a subdivision construction plan application not later than one year after the date the application is filed.

**PART 11.** Section 25-5-113 (*Updates*) of the City Code is amended to read as follows:

**§ 25-5-113 - UPDATES.**

An applicant may file an update to a site plan not later than one year ~~[the 180<sup>th</sup> day]~~ after the date the application is filed, unless days are added under Section 25-1-88(A) (*Extension of Update Deadline*).

**PART 12.** Subsection (A) of Section 25-5-114 (*Time Periods for Determination; Notice*) of the City Code is amended to read as follows:

- (A) The director shall make a determination under Section 25-5-112 (*Director's Approval*) and give written notification of the determination to each interested party not later than the deadline established by the director under Section 25-1-82 (*Application Requirements and Expiration*). [∴]

~~[(1) 28<sup>th</sup> day after the date an application for a site plan is filed, except an application for a small project;]~~

~~[(2) 9<sup>th</sup> day after the date an application for a small project is filed; or]~~

~~[(3) 14<sup>th</sup> day after the date an update to an application is filed.]~~

**PART 13.** Section 25-5-148 (*Conditional Use Site Plan Update and Expiration*) of the City Code is amended to read as follows:

- (A) If the Land Use Commission, or the council on appeal, imposes a condition of approval on a conditional use site plan, the applicant shall file with the

director an update that satisfies the condition not later than 20 business days ~~[the 60<sup>th</sup> day]~~ after the site plan approval date. A site plan expires if the applicant does not comply with the deadline.

(B) After receiving the update, the ~~[The]~~ director shall notify the applicant of review comments to an updated conditional use site plan not later than the deadline established by the director under Section 25-1-82 (Application Requirements and Expiration) ~~[the 14<sup>th</sup> working day after receiving the update].~~

~~[(C) The director shall determine whether to release an updated conditional use site plan and notify the applicant of the determination not later than the 21<sup>st</sup> day after receiving the update.]~~

~~[(D) If the director disapproves an updated conditional use site plan, the director shall notify the applicant of the disapproval by certified mail, return receipt requested. The notice must state the reasons why the updated site plan does not comply with the requirements of this title or a condition of approval.]~~

(C)[(E)] An applicant may file a subsequent update to a conditional use site plan not later than 135 business days ~~[the 180<sup>th</sup> day]~~ after the date of site plan approval. If the site plan on file after that date does not comply with the requirements of this title or a condition of approval, the site plan approval expires.

~~[(F)] [If a conditional use site plan on file with the director on the 180<sup>th</sup> day after the date of approval does not comply with the requirements of this title or a condition of approval, the site plan approval expires.]~~

(D)[G] The director shall deny a conditional use site plan that expires under this section.

**PART 14.** Section 25-11-63 (*Review Periods*) of the City Code is amended to read as follows:

(A) The building official shall approve or disapprove an application for the following permits by the deadlines established by the director under Section 25-1-82 (Application Requirements and Expiration) ~~[prescribed in this subsection].~~

Type of Permit	<del>[Days after application filed]</del>
(1) Commercial buildings, new construction	<del>[21]</del>
(2) Commercial buildings, remodeling and finishouts	<del>[7]</del>
(3) Residential, new construction	<del>[7]</del>

- (4) Residential, remodeling of a complying structure [2]
- (5) Residential, remodeling of or additions to a noncomplying structure [7]
- (6) Sign, other than a nonconforming off-premise sign [7]
- (7) Replacement of nonconforming off-premise sign [14]
- (8) Repair of nonconforming off-premise sign [7]
- (9) Demolition [3]
- (10) Relocation [3]

~~[(B) The building official shall approve or disapprove an application for a lake construction permit not later than the 7<sup>th</sup> day after the Parks and Recreation Board approves the application.]~~

**PART 15.** Section 25-12-266 (*Time Limitation of Application*) of the City Code is amended to read as follows:

**§ 25-5-113 - UPDATES.**

An application for a permit for any proposed work expires ~~[shall be deemed to have been abandoned]~~ one year ~~[180 days]~~ after the date of filing, unless a permit has been issued~~[; except that the building official is authorized to grant one extension of time for an additional period not to exceed 180 days. The extension shall be requested in writing before the application expires and justifiable cause demonstrated].~~

**PART 16.** Section 30-1-118 (*Extension of Review Period*) of the City Code is amended to read as follows:

**§ 30-1-118 – (RESERVED) [EXTENSION OF REVIEW PERIOD].**

- ~~[(A) The single office may extend a review period one time. The applicant must agree to an extension period that exceeds the length of the original review period.]~~
- ~~[(B) The single office shall give notice under Section 30-1-154(B) (*Notice of Applications and Administrative Decisions*) of an extension of a review period.]~~
- ~~[(C) If staff review is not finished at the expiration of an extended review period, the single office shall move an application to the next phase of process with the notation that staff review is not finished.]~~

**PART 17.** Subsection (A) of Section 30-1-119 (*Extension of Update Deadline*) of the City Code is amended and a new Subsection (C) is added to that section to read as follows:

- (B) With the exception of a site plan, subdivision application, or a subdivision construction plan, an [An] applicant may request that the single office extend a deadline for submitting an update to an application by filing a written request and justification with the single office before the expiration of the deadline.
  - (1) The single office must give notice under Section 30-1-154(B) (*Notice of Applications and Administrative Decisions*) of an extension request under this subsection.
  - (2) The single office may grant an extension request under this subsection if the single office determines that good cause exists for the extension. An extension period may not exceed the length of the original time period for submitting an update to the application.
- (C) An applicant may not request an extension of a deadline for submitting an update to a site plan, subdivision application, or subdivision construction plan under Subsection (A) of this section.

**PART 18.** Section 30-2-40 (*Vacating Plat; Replatting Without Vacating Plat; Amending Plat*) of the City Code is amended by adding a new Subsection (C) that reads as follows:

- (C) An application to vacate a plat expires after one year.

**PART 19.** Subsections (C), (D), and (E) of Section 30-2-56 (*Staff Review of Application for Preliminary Plan Approval*) of the City Code is amended to read as follows:

- (C) Initial staff review period for an application for preliminary plan approval is established by the director by administrative rule [28 days].
- (D) An applicant may file with the single office an update to an application for preliminary plan approval not later than one year [~~the 180th day~~] after the application was filed.
- (E) The staff review period of an update to an application for preliminary plan approval is established by the director by administrative rule [~~14 days~~].

**PART 20.** Section 30-2-60 (*Denial of Preliminary Plan*) of the City Code is amended to read as follows:



## § 30-2-60 DENIAL OF PRELIMINARY PLAN.

The single office shall deny an application for preliminary plan approval that does not comply with the criteria for approval one year [~~on the 180th day~~] after the application is filed, unless the applicant has submitted a written request to the single office for review of the application by the land use commission and commissioners court. If the applicant submits a request for review by the land use commission and commissioners court, the single office shall schedule the application for consideration by the land use commission and the commissioners court, and the land use commission and the commissioners court shall each determine whether the preliminary plan satisfies the criteria for approval.

**PART 21.** Section 30-2-82 (*Review of Application for Plat Approval; Expiration*) of the City Code is amended to read as follows:

## § 30-2-82 REVIEW OF APPLICATION FOR PLAT APPROVAL; EXPIRATION.

- (A) The single office shall promptly deliver a copy of an application for plat approval to each reviewing department or agency.
- (B) After the application is filed, a [A] reviewing department or agency shall prepare and deliver to the single office a written report of comments and recommendations regarding an application for plat approval not later than the deadline established by the director by administrative rule [~~21<sup>st</sup> day after the application is filed~~].
- (C) After the application is filed, the [~~The~~] single office shall determine whether an application for plat approval complies with the criteria for approval and give notice under Section 30-1-154(B) (*Notice of Applications and Administrative Decisions*) of the determination not later than the deadline established by the director by administrative rule [~~28<sup>th</sup> day after the application is filed~~]. If the single office recommends disapproval, the notice shall state the reasons for the recommendation.
- (D) An applicant may file with the single office an update to an application for plat approval not later than one year [~~the 180th day~~] after the application is filed.
- (E) After the update is filed, the [~~The~~] single office shall determine whether an update to an application for plat approval complies with the criteria for approval and give notice under Section 30-1-154(B) (*Notice of Applications and Administrative Decisions*) of the determination not later than the deadline established by the director by administrative rule [~~the 14th day after the update is filed~~]. If the single office recommends disapproval, the notice shall state the reasons for the recommendation.


- (F) An application for plat approval expires one year [~~on the 180th day~~] after filing if the single office determines that the application does not comply with the criteria for approval, unless the applicant has submitted a written request to the single office for review of the application by the land use commission and the commissioners court. If the applicant requests review by the land use commission and the commissioners court, the land use commission and the commissioners court shall each determine whether the application complies with the criteria for approval and approve or deny the application.

**PART 22.** Parts 1 through 15 of this ordinance take effect on May 2, 2016. Parts 16 through 21 of this ordinance take effect on the effective date of a Travis County ordinance enacting the same or substantially similar provisions.

**PASSED AND APPROVED**

\_\_\_\_\_, April 21, 2016

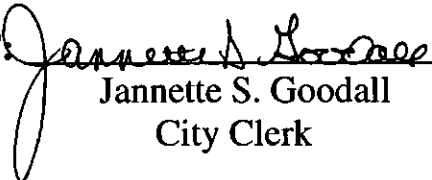
**APPROVED:**

  
\_\_\_\_\_  
Anne L. Morgan  
City Attorney

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Steve Adler  
Mayor

**ATTEST:**

  
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Jannette S. Goodall  
City Clerk